

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	NO. 1:16-cr-00018
	:	
v.	:	(Rambo. S.J.)
	:	
TYSON BAKER	:	(Filed Electronically)
Defendant	:	

**MOTION FOR EMERGENCY RELEASE OF DEFENDANT TO
IMMEDIATE SUPERVISED RELEASE DUE TO COVID-19 RISK**

AND NOW, Defendant, Tyson Baker, by and through his attorney, Jack McMahon, Esquire, of THE LAW OFFICE OF JACK MCMAHON and files the following Motion for hereby submits this Motion for emergency release of defendant to to COVID-19 risk, and avers the following:

1. Defendant, Tyson Baker was convicted by a jury on September 14, 2017 on five of the six counts of his indictment.
2. Defendant was sentenced on March 12, 2018 by this Court to 42 months incarceration to be followed by three years supervised release.
3. Defendant reported as directed to federal prison on April 2, 2018 and has remained incarcerated.
4. 18 U.S.C. § 3145(c) provides that defendants convicted of certain crimes must be incarcerated absent “exceptional reasons” why incarceration is

inappropriate.

5. “Exceptional circumstances” has been defined as a “unique combination of circumstances giving rise to situations that are out of the ordinary.”

6. The “exceptional circumstances” are as follows:

As of March 12, 2020 the new strain of coronavirus which causes COVID-19 has infected over 132,300 people, leading to at least 4, 954 deaths worldwide. On March 11, 2020, the World Health Organization officially classified COVID-19 as a pandemic. President Trump declared a State of Emergency. As of 3/20/20 there are 851 positive cases of COVID-19 in Pennsylvania and seven deaths.

The CDC has issued guidance that individuals of higher risk of contracting COVID-19 – adults over 60 years old and people with chronic medical conditions [such as lung disease, heart disease, and diabetes] – take immediate preventative actions, including avoiding crowded areas and staying home as much as possible. With confirmed cases in Pennsylvania that indicate community spread, we must take every necessary action to protect vulnerable populations and the community at large.

7. Conditions of confinement create the ideal environment for the transmission of contagious disease. Inmates cycle in and out of detention facilities from all over the world and the country, and people who work in the facilities,

including correctional officers and care and service providers, leave and return daily without screening. Incarcerated people have poorer health than the general population, and even at the best of times, medical care is limited. Many people who are incarcerated also have chronic conditions like diabetes or HIV, which makes them vulnerable to severe forms of COVID-19. According to public health experts, incarcerated individuals “are at special risk of infection, given their living situations,” and “may also be less able to participate in proactive measures to keep themselves safe,” “infection control is challenging in these settings.” Outbreaks of the flu regularly occur in jails, and during the H1N1 epidemic in 2009, many jails and prisons dealt with high numbers of cases. In China, officials have confirmed the coronavirus spreading at a rapid pace in Chinese prisons, counting 500 cases. Secretary of State Mike Pompeo has called for Iran to release Americans detained there because of the “deeply troubling reports that COVID-19 has spread to Iranian prisons,” noting that “their detention amid increasingly deteriorating conditions defies basic human decency.” Courts across Iran have granted 54,000 inmates furlough as part of the measures to contain coronavirus across the country. In the U.S. steps are already being taken in some jurisdictions to facilitate the release of elderly and sick prisoners and to reduce jail populations by discouraging or refusing the admission of individuals arrested on non-violent misdemeanor charges.

8. The State of new Jersey is releasing all of its low-level prisoners. Three BOP guards tested positive for COVID-19. The BOP, through multiple sources, is ground zero for the pandemic in the United States. Guards do not have masks, hand soap and hand sanitizers are non-existent.

9. Mr. Baker is a non-violent offender and is currently housed at FCI Gilmer and is coming up on two years of incarceration (24 months).

10. Mr. Baker, while at FCI Gilmer, has been working seven days a week at The Powerhouse since August of 2018. He has also been the Town Driver since November 2019. He also worked for three months at UNICOR.

11. Mr. Baker received an award while incarcerated (“Act of Heroism”) for his role in helping an auto accident victim he came upon while working outside of the prison.

12. Due to Mr. Baker’s background, and all of the above, prior to COVID-19 crisis it was recommended that he be released to house arrest 6-9 months early. This would translate to release to home detention somewhere between June of this year and September of this year.

13. Mr. Baker has also completed credits pursuant to the Prison Reform Act (drug and alcohol classes and others) that should make him able to be released now to home detention/supervised release.

14. Mr. Baker suffers from high blood pressure and an autoimmune

disease which causes severe psoriasis resulting in open cuts and sores on his feet.

15. Both of the above conditions are listed by the CDC as risk factors for catching COVID-19 and for the consequences if infected.

16. Due to this increased risk, the defendant's non-violent background, the defendant's excellent conduct while incarcerated and the closeness in time to being released from custody anyway, it is respectfully requested this Court issue and order immediately placing defendant on house arrest and/or general supervised release.

WHEREFORE, it is requested that the Court approve this Motion for Emergency Release.

Respectfully submitted,

/s/ Jack McMahon
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Date: March 24, 2020

Attorney for Defendant

CERTIFICATE OF SERVICE

I, Jack McMahon, hereby certify that on this 19th day of April, 2017, a true and correct copy of the foregoing motion was served upon the party named below via electronic means to the addressed as follows:

William A. Behe, ADA
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/s/ Jack McMahon
Jack McMahon, Esquire

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UNITED STATES OF AMERICA	:	
v.	:	CRIMINAL DOCKET NO. 1:16-cr-00018
	:	
TYSON BAKER	:	

ORDER

AND NOW, to wit, this day of , 2020, upon consideration of Defendant's Motion FOR EMERGENCY RELEASE, it is hereby ORDERED that the foregoing Motion FOR EMERGENCY RELEASE is GRANTED.

J.